

HOUSE BILL NO. 6106

November 13, 2024, Introduced by Reps. Xiong, Brenda Carter, Young, Pohutsky, McFall, O'Neal, Tyrone Carter, Neeley, Morgan, Dievendorf, McKinney, Fitzgerald, Brabec and Scott and referred to the Committee on Insurance and Financial Services.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending sections 4621 and 4625 (MCL 500.4621 and 500.4625),
section 4621 as amended by 2018 PA 397 and section 4625 as added by
2008 PA 29.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 4621. (1) A captive insurance company is not required to
- 2 make an annual report except as provided in this chapter.
- 3 (2) Annually, not later than 60 days after the end of a
- 4 captive insurance company's fiscal year, the captive insurance

1 company shall submit to the director a report of its financial
2 condition, verified by oath of 2 of its executive officers. A
3 captive insurance company may report using generally accepted
4 accounting principles or, with the approval of the director,
5 international financial reporting standards or statutory accounting
6 principles, with useful or necessary modifications or adaptations
7 required or approved or accepted by the director for the type of
8 insurance and kinds of insurers to be reported on, and as
9 supplemented by additional information required by the director.
10 The director may prescribe the form and manner in which captive
11 insurance companies shall report. Information submitted under this
12 section is confidential as provided in section 4609.

13 (3) The director may address inquiries to a captive insurer
14 concerning the insurer's activities or conditions or any other
15 matter connected with the insurer's transactions. An insurer
16 addressed under this subsection shall reply in writing to each
17 inquiry from the director ~~within~~ **not later than** 30 days after
18 receipt of the inquiry.

19 (4) The director may require interim reporting on any of the
20 captive insurer's business, including any matter, condition, or
21 requirement regulated ~~by~~ **under** this chapter. The director shall
22 prescribe the format and content of the interim report.

23 (5) A captive insurer that fails to file a report required ~~by~~
24 **under** this section, or fails to reply within 30 days to an inquiry
25 of the director, is subject to a civil penalty of not less than
26 \$1,000.00 or more than \$5,000.00 per occurrence, and an additional
27 \$50.00 for every day that the captive insurer fails to file the
28 report or reply to the inquiry. In addition, a captive insurer that
29 fails to file a report, or fails to make a satisfactory reply to an

1 inquiry of the director concerning the captive insurer's affairs,
2 is subject to proceedings under section 4637.

3 (6) A pure captive insurance company may make written
4 application for filing the annual report on a fiscal year end that
5 is consistent with the parent company's fiscal year. The annual
6 report must be on a form prescribed by the director.

7 (7) A branch captive insurance company shall file with the
8 director 60 days after the fiscal year end a copy of all reports
9 and statements required to be filed under the laws of the
10 jurisdiction in which the alien captive insurance company is
11 formed, verified by oath by 2 of its executive officers. If the
12 director is satisfied that the annual report filed by the alien
13 captive insurance company in its domiciliary jurisdiction provides
14 adequate information concerning the financial condition of the
15 alien captive insurance company, the director may waive the
16 requirement for completion of the captive annual statement.

17 (8) A captive insurance company shall annually submit to the
18 director the opinion of a qualified actuary as to whether the
19 reserves and related actuarial items held in support of the
20 reserves are computed appropriately, are based on assumptions that
21 satisfy contractual provisions, are consistent with prior reported
22 amounts, and comply with applicable laws of this state. The
23 actuarial opinion required ~~by~~**under** this section must be submitted
24 in a form prescribed by the director. For purposes of this section,
25 "qualified actuary" means a member of either the American Academy
26 of Actuaries or the Society of Actuaries who also meets any other
27 criteria that the director may establish by rule, regulation, or
28 order.

29 **(9) Not later than 5 months after the fiscal year end of the**

1 captive insurance company, the captive insurance company shall file
 2 with the director audited financial statements prepared by an
 3 independent public accountant. The independent public accountant
 4 must be an independent certified public accountant or accounting
 5 firm in good standing with the American Institute of Certified
 6 Public Accountants and in good standing in each state in which the
 7 independent public accountant is licensed to practice.

8 Sec. 4625. (1) ~~No provisions of this act,~~ **This act**, other than
 9 those **provisions** specifically referenced in this chapter, **does not**
 10 apply to a captive insurance company, and those provisions apply
 11 only as modified by this chapter. If a conflict occurs between a
 12 provision of this act and a provision of this chapter, this chapter
 13 controls.

14 (2) The ~~commissioner by rule, regulation, or order~~ **director**
 15 may exempt ~~special purpose~~ captive insurance companies, on a case-
 16 by-case basis, from provisions of this chapter that the
 17 ~~commissioner~~ **director** determines to be inappropriate given the
 18 nature of the risks to be insured.

19 (3) Sections 210 to 222, 226 to 238, 244 to 251, and 2057 to
 20 2062, and chapter 45 apply to captive insurance companies.

21 (4) The expenses and charges of a captive insurance company
 22 examination ~~shall~~ **must** be paid to ~~the~~ **this** state by the captive
 23 insurance company or companies examined, and the ~~office~~ **department**
 24 shall issue warrants for the proper charges incurred in all
 25 examinations. The payments received by ~~the~~ **this** state ~~shall~~ **must** be
 26 deposited into the captive insurance regulatory and supervision
 27 fund.

28 (5) A captive insurance company shall pay an annual renewal
 29 fee ~~by March 1 of each calendar year.~~ **not later than 90 days after**

1 **the captive insurance company's fiscal year ends.** The annual
2 renewal fee ~~shall~~**must** be calculated based ~~upon~~**on** the annual
3 volume of insurance or reinsurance premiums received by the captive
4 insurance company as follows:

5 (a) For annual premiums less than \$5,000,000.00, the renewal
6 fee ~~shall be~~**is** \$5,000.00.

7 (b) For annual premiums equal to or greater than
8 \$5,000,000.00, but less than \$10,000,000.00, the renewal fee ~~shall~~
9 ~~be~~**is** \$10,000.00.

10 (c) For annual premiums equal to or greater than
11 \$10,000,000.00, but less then \$15,000,000.00, the renewal fee ~~shall~~
12 ~~be~~**is** \$15,000.00.

13 (d) For annual premiums equal to or greater than
14 \$15,000,000.00, but less than \$25,000,000.00, the renewal fee ~~shall~~
15 ~~be~~**is** \$25,000.00.

16 (e) For annual premiums equal to or greater than
17 \$25,000,000.00, but less than \$40,000,000.00, the renewal fee ~~shall~~
18 ~~be~~**is** \$40,000.00.

19 (f) For annual premiums equal to or greater than
20 \$40,000,000.00, but less than \$55,000,000.00, the renewal fee ~~shall~~
21 ~~be~~**is** \$50,000.00.

22 (g) For annual premiums equal to or greater than
23 \$55,000,000.00, but less than \$75,000,000.00, the renewal fee ~~shall~~
24 ~~be~~**is** \$75,000.00.

25 (h) For annual premiums equal to or greater than
26 \$75,000,000.00, the renewal fee ~~shall be~~**is** \$100,000.00.

27 (6) The ~~office~~**department** may charge a \$15.00 fee for any
28 document requiring certification of authenticity or the signature
29 of the ~~commissioner~~**director**. The payments received ~~shall~~**must** be

1 deposited into the captive insurance regulatory and supervision
2 fund.

3 (7) The ~~office~~**director** may charge a fee of \$25.00 payable to
4 the attorney general for the examination of any amendment to the
5 organizational documents.

6 (8) Notwithstanding any other provision of law, the
7 ~~commissioner~~**director** may employ legal counsel ~~as he or she~~**the**
8 **director** considers necessary to assist in ~~his or her~~**the director's**
9 responsibilities under this chapter.

10 (9) The confidentiality provisions of this chapter do not
11 extend to final examination reports produced by the ~~commissioner~~
12 **director** in inspecting or examining a captive insurance company
13 formed as a risk retention group under the liability risk retention
14 act of 1986, 15 USC 3901 to 3906.

15 (10) Section 222 applies to all business written by a captive
16 insurance company except that the examination for a branch captive
17 insurance company ~~shall~~**must** be of branch business and branch
18 operations only, ~~as long as~~**if** the branch captive insurance company
19 provides annually to the ~~commissioner~~**director** a certificate of
20 compliance, or its equivalent, issued by or filed with the
21 licensing authority of the jurisdiction in which the branch captive
22 insurance company is formed and demonstrates to the ~~commissioner's~~
23 **director's** satisfaction that it is operating in sound financial
24 condition in accordance with all applicable laws and regulations of
25 that jurisdiction.